

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CASCADE YARNS, INC., a Washington  
Corporation,

Plaintiff,

v.

KNITTING FEVER, INC., a New York  
Corporation, KFI, INC., a New York  
Corporation, SION ELALOUF, an individual,  
and JAY OPPERMAN, an individual,

Defendants.

Case No.

**COMPLAINT FOR UNFAIR  
COMPETITION AND FALSE  
ADVERTISING**

Jury Demand

COMES NOW Cascade Yarns, Inc. ("Cascade"), in order to protect its interests given certain claims raised against it in pending litigation and certain orders of the Court in that litigation, and files this Complaint and in support thereof alleges as follows:

**FACTUAL AND PROCEDURAL BACKGROUND**

1. Cascade is a Washington corporation having a principal place of business at 1224 Andover Park East, Tukwila, Washington 98188. Cascade is one of the nation's finest

1 purveyors of yarns and sells its products through specialty retailers and boutiques throughout the  
2 United States.

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4 2. Knitting Fever, Inc. and KFI, Inc. (collectively "KFI"), Sion Elalouf and Jay  
5 Opperman, (collectively, "Defendants") are also participants in the wholesale market for  
6 hand knitting yarns in the United States. KFI claimed to be the leading wholesale yarn  
7 supplier to specialty retailers. KFI sells its products through retailers and boutiques throughout  
8 the United States.

9  
10 3. Cascade is one of KFI's chief competitors in the wholesale yarn market place in  
11 the United States.

12 4. Knitting Fever, Inc. is a corporation organized and/or existing since 1980 under  
13 the laws of the State of New York. KFI, Inc. is a corporation organized and/or existing since  
14 1994 under the laws of the State of New York. On information and belief, KFI has its  
15 principal place of business at 315 Bayview Avenue, Amityville, New York 11701-2801.  
16 On information and belief, KFI, Inc. shares the same business address with Knitting Fever, Inc.,  
17 along with most if not all executive, shipping and administrative employees. On information and  
18 belief, import shipments of yarn are commonly, if not always, shipped and billed to Knitting  
19 Fever, Inc., as KFI, Inc. does not have relationships with or receive shipments from supplier,  
20 other than Knitting Fever, Inc. On information and belief, Knitting Fever, Inc. and KFI, Inc.  
21 routinely operate out of the same booth at tradeshow, and Knitting Fever, Inc. arranges and  
22 pays for such booths. On information and belief, Knitting Fever, Inc. and KFI, Inc. share a  
23 telephone and computer system at 315 Bayview Avenue, and that an employee answering the  
24 telephone may access either companies records on the same equipment. On information and  
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1 belief, KFI, Inc. no longer owns nor occupies its listed headquarters of 33-35 Debevoise  
2 Avenue, Roosevelt, New York 11575-1711. On information and belief, Knitting Fever, Inc.  
3 and KFI, Inc. share an interactive webpage and a contract for sales support for purchases from  
4 the same webpage.

5           5.       Sion Elalouf is a natural person and, on information and belief, resides at 22 Longwood  
6 Road, Port Washington, New York 11050-1260. On information and belief, since 1980, Mr. Elalouf  
7 has been the sole or controlling shareholder and chief executive of KFI and has been and continues to  
8 be responsible for setting KFI's trade policies and practices. He serves in the same capacities for KFI,  
9 Inc.  
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11  
12           6.       Jay Opperman is a natural person and, on information and belief, resides at 78 Clinton  
13 Avenue, Montclair, New Jersey 07042-2116. Mr. Opperman has held himself out in various  
14 capacities in relation to KFI, including as an independent sales representative of KFI, as a KFI  
15 principal and/or KFI sales manager responsible for selecting and marketing KFI's products and  
16 managing a national sales force tasked with increasing sales of hand knitting yarn products to retailers.  
17

18           7.       Mr. Opperman is a managing agent of KFI in charge of its United States sales  
19 operations. He oversees both employees and independent contractors of Defendants and is  
20 compensated in part upon Defendants gross sales volume for his management services in  
21 overseeing the sales force. Mr. Opperman has traveled to the State of Washington on more than  
22 one occasion for the purpose of training a sales representative in selling yarn to Washington  
23 customers. Mr. Opperman has also personally presented sales samples to Washington customers  
24 in Washington for the purpose of soliciting orders and has disseminated his business cards to  
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1 Washington customers. Mr. Opperman has personally trained and supervised the two sales  
2 representatives, who are currently responsible for customers in Washington.

3  
4 8. Mr. Opperman is also involved in yarn procurement and marketing. He routinely  
5 travels to trade shows in the United States, Germany, and Italy where he meets with yarn suppliers  
6 and is involved in advising Mr. Elalouf in purchasing decisions. According to Mr. Opperman, he  
7 is instructive in yarn selection for each season and supervises sales teams at Knitting Fever and  
8 Euro Yarns. Mr. Opperman is also involved in vendor negotiations, which take place in late  
9 summer or early fall in New York.  
10

11  
12 9. According to KFI's Facebook page:

- 13 • KFI imports the finest yarns from around the world for American knitters and crocheters -  
14 including favorites like Debbie Bliss, Louisa Harding and Noro.
- 15 • KFI's mission is to supply American knitters with the highest quality yarn lines supported  
16 by the greatest designers the industry has seen to date.
- 17 • KFI supplied the nation with the highest quality yarn lines supported by the greatest  
18 designers the industry has seen to date.
- 19 • KFI uses lessons learned as a retailer to service its customers. This insight allows KFI to  
20 provide the best value and the most cutting edge yarns and support available today. From  
21 world class designers like Noro, Debbie Bliss, Louisa Harding, Elsebeth Lavold, Ella Rae,  
22 Jane Ellison, Cornelia Tuttle Hamilton, Jenny Watson, and Jean Moss- to some of the  
23 oldest and most respected yarn manufacturers in Europe like Sirdar, Sublime, Katia, Laines  
24 du Nord, and OnLine, Knitting Fever takes pride in supplying the best yarns and the best  
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1 support from around the world.

2 10. Mr. Elalouf is a managing agent of KFI and Sales Solutions, Inc. Sales Solutions,  
3 Inc. is involved in the payment of commissions to sales representatives that are employed by or  
4 contracted to KFI that sell the yarns that are the subject of this Complaint. Sales Solutions  
5 operates out of KFI's facilities and has no operations independent of KFI. Mr. Elalouf is the  
6 highest authority in these entities in that he does not report as a subordinate to anyone else in the  
7 management the above-stated companies. Mr. Elalouf is actively personally involved in  
8 management of these entities particularly in decisions such as buying, labeling, marketing, and  
9 selling yarns. On information and belief, Mr. Elalouf operates KFI and KFI, Inc. as his alter ego.  
10 Accordingly, each reference to KFI herein includes KFI, Inc.

11  
12 11. Mr. Elalouf is familiar with many segments of the yarn industry. He authored two  
13 books on yarn and knitting; over the last 20 years, he routinely attended trade shows in the United  
14 States, Germany, the United Kingdom, and Italy on an annual basis; arranged for the publication  
15 of two semi-annual knitting magazines; visited and toured numerous spinning mills; and made  
16 yarn acquisition decisions for KFI since its inception.

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18 12. The Defendants are participants in the wholesale market for hand knitting yarns  
19 in the United States. Defendants have served as the United States distributor for Mondial and  
20 Katia branded yarns.

21  
22 13. Defendants had the distribution rights for Mondial yarns in the United States.  
23 Upon information and belief, Defendants lost the distribution rights for Mondial yarns  
24 sometime before 2010. Mondial replaced Defendants with Trendsetter as distributor for the  
25 Mondial yarns in the United States. The yarns that Mondial supplied to Defendants, prior to  
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1 switching to Trendsetter, were specifically labeled "Made in Italy."

2  
3 14. Defendants are aware that many yarn sourcing companies, which supply yarns to  
4 Defendants, are not in fact yarn spinners and produce no yarn themselves. Filatura Pettinata VVG,  
5 Emmepieffe, Katia, and Mondial are known to Defendants not to actually produce yarns supplied  
6 to Defendants in their own facilities. Additionally, on information and belief, Mr. Elalouf was  
7 told by Mr. Bruce Landau, a sales agent for the yarn spinner Di Ve, that Mondial and Katia  
8 purchased yarn spun by Di Ve and thereafter sold the yarns under Mondial and Katia's respective  
9 brands. On information and belief, Mr. Elalouf was told by Mr. Landau that yarn, which Katia  
10 branded and labeled as made in Spain, was actually made by Di Ve in Italy.  
11

12 15. Defendants lack information and reasonable belief that either Katia or Mondial actually  
13 manufacture any of the products branded with their names, which KFI distributes in the United States.  
14 Defendants are not aware of any communications from Katia stating that Katia actually manufactures  
15 any yarns branded with the Katia name, or communications from Mondial that Mondial actually  
16 manufactures any yarns branded with the Mondial name. Defendants are not aware of any  
17 communications from Mondial indicating that any yarns from Mondial, which are silent as to country  
18 of origin, save the name and country of operation of Mondial, indicating that such yarns were actually  
19 made in Italy. Defendants are not aware of any communications from Katia indicating that any yarns  
20 from Katia, which are silent as to country of origin, save the name and country of operation of Katia,  
21 indicating that such yarns were actually made in Spain. Defendants took no effort to inquire from  
22 either Katia or Mondial as to where products not expressly stating a country of origin were actually  
23 manufactured.  
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1           16.     Prior to August 2010, many Katia yarns that Defendants distributed were labeled  
2     “Made in Italy.” Some Katia yarns identified a different country of origin. For example,  
3     Defendants sold and distributed a Katia yarn called “Evita” which was labeled “Made in  
4     Argentina.”

5  
6           17.     Defendants are personally familiar with sourcing and importing fancy yarns,  
7     such as ruffle scarf yarns. Fancy yarn, unlike plied worsted yarns, are often crocheted on an  
8     industrial crochet machine. Defendants have imported their own fancy yarns, branded in a  
9     label owned by KFI, and import these yarns from Turkey and China.

10  
11           18.     At some date following August 2010, Defendants reacquired the distribution  
12     rights for the United States from Mondial. After Defendants reacquired the distribution rights,  
13     Mondial started sourcing its products from Turkey and or China and ceased to list a country of  
14     origin upon many of its labels. Similarly, Katia began importing products from Turkey and or  
15     China and ceased to list a country of origin upon many of its labels.

16  
17           19.     Defendants made no effort to inquire of either Mondial or Katia as to why the  
18     country of origin was removed from their labels. KFI and/or Mr. Elalouf fraudulently  
19     submitted a continuing guaranty to the Federal Trade Commission with knowledge that the  
20     yarns sold in the United States by KFI that are the subject of this Complaint do not identify the  
21     source, distributor, or country of origin for those yarns. KFI and/or Mr. Elalouf has kept the  
22     guarantee on file, despite having actual knowledge that products sold under it were not  
23     properly labeled under the Wool Products Labeling Act and/or the Textile Products Identification  
24     Act.  
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1           20.     Subsequent to Cascade filing suit against Defendants in 2010, a managing agent of  
2 one of Defendants' suppliers wrote to KFI regarding the alleged failure of Cascade to identify the  
3 country of origin of certain yarns sold by Cascade and advised that the labels of certain yarns only  
4 identified the location of the distributor and that this was misleading. The correspondence was  
5 provided to Mr. Elalouf. Mr. Elalouf is ultimately responsible for labeling the yarns sold by  
6 Defendants.  
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8  
9           21.     Mr. Elalouf and his attorneys were aware of the deficiency of the labeling of Katia  
10 yarns, as Mr. Elalouf refused to answer questions on the labeling of the yarns during his  
11 deposition in July 2012, until ordered to do so by a United States Magistrate Judge during the  
12 deposition.  
13

14           22.     Upon information and belief, KFI has been unwilling to fulfill more than one order  
15 for Katia and Mondial yarns, placed by Robert Dunbabin on its Shopatron partnered website,  
16 stating that the yarns ordered were either not in stock or discontinued. At the times that Mr.  
17 Dunbabin's orders were not fulfilled, KFI delivered the Katia and Mondial yarns to retailers who  
18 made the yarns available for sale in the United States.  
19

### 20                           THE PENDING LITIGATION

21           23.     Cascade filed suit against Defendants and others in 2010 alleging claims for unfair  
22 competition and false advertising under federal and state law. KFI filed an Answer and  
23 Counterclaim against Cascade and a Third-Party Complaint against each individual member  
24 of the family that owns Cascade. That suit remains pending before this Court.  
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1           24.       KFI's operative Counterclaim and Third Party Complaint alleged, in  
2 paragraph 178, that "Cascade has also made false and misleading statements about the  
3 composition and country of origin of its own yarns" and, in paragraph 180 that "many of  
4 Cascade's yarn labels fail to identify a country of origin as required by law."

5           25.       KFI's operative Counterclaim and Third Party Complaint alleged, in paragraph  
6 184, that "Luxury Mohair, Bamboo Cotton DK, Dream Chunky, Mirage, Zig Zag 4 Ply do not  
7 identify a country of origin on their labels."  
8

9           26.       As soon as Cascade became aware of the lack identification of the country of  
10 origin on any of the yarns that it sold (and it did not sell all of the yarns identified in the  
11 Counterclaim and Third Party Complaint as lacking the identification of a country of origin),  
12 it immediately made that information and additional labels identifying the country of origin  
13 available to its customers.  
14

15           27.       KFI's operative Counterclaim and Third Party Complaint alleged claims for  
16 unfair competition against Cascade, Robert A. Dunbabin, Sr., Jean Dunbabin. Robert A.  
17 Dunbabin, Jr. and Shannon Dunbabin based on Cascade's alleged failure to identify a country  
18 of origin on the labels of Luxury Mohair, Bamboo Cotton DK, Dream Chunky, Mirage and  
19 Zig Zag 4 Ply.  
20

21           28.       In an order dated May 19, 2011 entered in the pending action, the Court granted  
22 Cascade leave to file its Third Amended Complaint; however, the Court cautioned that further  
23 requests for leave to amend would be highly scrutinized as further requests for leave would  
24 impact the firm trial date. Accordingly, when Cascade subsequently became aware of  
25 Defendants' failure to identify the country of origin of certain of Defendants' yarns it did not  
26

1 seek leave to file a Fifth Amended Complaint in the pending action given the Court's  
2 admonitions and Cascade's option to initiate a new suit to address the new claim.

3 29. Cascade moved for summary judgment and dismissal of the Counterclaim and  
4 Third Party Complaint based on the alleged failure to identify a country of origin on the labels  
5 for Luxury Mohair, Bamboo Cotton DK, Dream Chunky, Mirage and Zig Zag 4 Ply.  
6

7 30. By Order of October 31, 2012, the Court denied Cascade's motion for summary  
8 judgment on KFI's claims for the alleged failure to identify the country of origin for Luxury  
9 Mohair, Bamboo Cotton DK, Dream Chunky, Mirage and Zig Zag 4 Ply. The Court  
10 recognized that Cascade pointed to KFI's labeling of certain of its yarns in the same fashion  
11 as Cascade and stated that this was "legally ineffective as proof that Cascade's yarns were  
12 properly labeled as to country of origin." Further, the Court recognized that failure to  
13 identify a country of origin is actionable under the Lanham Act.  
14

15 31. KFI's decision to persist in asserting its country of origin claims, while selling  
16 yarns labeled in the same fashion as some yarns previously sold by Cascade, along with the  
17 Court's ruling sustaining such claims and subsequent order for Cascade to engage in costly and  
18 protracted mediation to settle KFI's claims against Cascade arising from its alleged failure to  
19 identify a country of origin, compels Cascade to bring this suit in order to offset any liability and  
20 costs that it incurred.  
21

22 32. Cascade's investigation to date, which investigation is ongoing, reveals that the  
23 following yarns imported and sold by Defendants within the United States in competition with yarns  
24 sold by Cascade do not identify a country of origin: Katia Acuario, Katia Aloha, Katia Azahar, Katia  
25 Bolivia, Katia Belice, Katia Bombay, Katia Brooklyn, Katia Caroline, Katia Chic Print, Katia Cuzco,  
26

1 Katia Funny, Katia Gatsby, Katia Gatsby Lux, Katia Gemini, Katia Grace, Katia Greta, Katia  
2 Hechico, Katia Ingenua, Katia Malindi, Katia Manhattan, Katia Marilyn, Katia Martinica, Katia  
3 Malino, Katia Ondas, Katia Ondas Lux, Katia Papalon, Katia Park Avenue, Katia Peru, Katia Rizos,  
4 Katia Rocio, Katia Rocio Plus, Katia Roma, Katia Ronda, Katia Sole, Katia Sophie, Katia Syros,  
5 Katia Toledo, Katia Triana Lux, Katia Triana, Katia Zanzibar, Mondial Libra Lux, Mondial Papillion,  
6 Mondial Fantasy, Mondial Scically, Mondial Giava and Mondial Pizzo Lux.  
7

8 33. Similarly, a number of KFI's yarns fail to list the name or registered d/b/a of any  
9 distributor. For instance, the "Louisa Harding" branded yarns do not list any manufacturer or  
10 distributor on their labels or marketing materials. Similarly, the "Mirasol" and "Queensland" branded  
11 yarns do not list any manufacturer or distributor on their labels or marketing materials.  
12

13 34. Upon information and belief, Defendants have made statements to people in the  
14 yarn industry, including people doing business with Cascade, that these and other claims pose  
15 so much liability to Cascade that KFI's pursuit of the claims will likely put Cascade out of  
16 business.  
17

18 35. Accordingly, Cascade is left with no option other than to initiate a new action to  
19 pursue any claims arising out of KFI's failure to identify a country of origin for certain yarns  
20 given that the Court in the pending action determined that KFI stated a claim for unfair  
21 completion for Cascade's failure to identify a country of origin on certain yarns and that such  
22 claims should proceed to trial.  
23

### 24 JURISDICTION AND VENUE

25 36. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338,  
26 based upon the federal causes of action asserted. This Court has supplemental jurisdiction over the

1 remaining counts pursuant to 28 U.S.C. § 1367.

2 37. Personal jurisdiction and venue are proper in this Court pursuant to 28 U.S.C. §  
3 1391 and 18 U.S.C. § 1965 because Defendants transact business in this district, are found in  
4 this district, and/or directed conduct at this forum.  
5

6 **COUNT ONE**  
7 **(Unfair Competition Under 15 U.S.C. § 1125(a))**

8 38. Cascade hereby incorporates by reference all previous allegations of this Complaint  
9 as if specifically set forth herein.

10 39. Defendants, in promoting their hand knitting yarns, have made false and misleading  
11 statements about the country of origin of those yarns.  
12

13 40. The false and misleading statements of the Defendants about their yarns have  
14 deceived some Cascade customers or have the tendency to deceive a substantial segment of  
15 Cascade's customers.

16 41. The Defendants' false and misleading statements about their yarns are material, in  
17 that they are likely to influence customers' purchasing decisions.  
18

19 42. Cascade has been and will continue to be injured as a result of the false and  
20 misleading statements about the country of origin of Defendants' yarns either by direct diversion  
21 of sales from Cascade to Defendants or by a lessening of the goodwill associated with Cascade's  
22 goods.  
23

24 43. The acts of the Defendants constitute willful, deliberate, false, and misleading  
25 representations of fact as to the nature and characteristics of their yarns. The false and misleading  
26 statements of the Defendants' constitutes false advertising.

1           44.     As a direct and proximate result of the false advertising and deceptive conduct of  
2 the Defendants, Cascade has suffered and will continue to suffer monetary damages and  
3 irreparable harm.

4  
5                               **COUNT TWO**  
6                               **(False Advertising Under 15 U.S.C. § 1125(a))**

7           45.     Cascade hereby incorporates by reference all previous allegations of this Complaint  
8 as if specifically set forth herein.

9           46.     As set forth above, Defendants have made and continue to make deceptive,  
10 misleading and fraudulent statements regarding the country of origin of certain yarn products  
11 sold throughout the United States and identified herein. Additionally, Defendants have made and  
12 continue to make deceptive, misleading and fraudulent statements in marketing materials, on  
13 their website(s) and in promotional materials regarding the country of origin of certain yarn  
14 products, including but not necessarily limited to the mislabeled products identified in this  
15 Complaint. These statements are meant to influence customer into purchasing Defendants'  
16 products to the exclusion of Cascade's products.

17  
18           47.     As set forth above, Defendants' labels and promotional materials for the yarns  
19 identified herein fail to disclose a country of origin contrary to applicable law. KFI contends that  
20 this constitutes unfair competition. The Court in the pending action declined to dismiss KFI's  
21 claims for unfair competition based on the identification of a country of origin. Cascade contends  
22 that to the extent this constitutes unfair competition as alleged by KFI that Defendants have  
23 intentionally engaged in the same conduct. Further, that Defendants continue to engage in the  
24 same conduct by continuing to import and deliver products in the United States subsequent to  
25  
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1 KFI's filing its Counterclaim and Third Party Complaint in the pending action that do not identify  
2 the country of origin.

3 48. Defendants' past and ongoing harm of Cascade is continuing to the present and  
4 foreseeable future.  
5

6 49. As a direct and proximate cause of Defendants' conduct, Cascade has been  
7 damaged in an amount to be proven at the time of trial. Cascade will continue to suffer injury  
8 to its goodwill, its rights and its business, unless and until Defendants are restrained from  
9 continuing their wrongful acts.  
10

11 **COUNT THREE**

12 **(Unfair Competition/Violation of the Washington Consumer Protection Act, RCW 19.86)**

13 50. Cascade hereby incorporates by reference all previous allegations of this Complaint  
14 as if specifically set forth herein. As set forth above, Defendants have made and continue to make  
15 deceptive and misleading statements on labels of products sold throughout the U.S.  
16 Additionally, Defendants have made and continue to make deceptive, misleading and fraudulent  
17 statements marketing materials, on their website(s), in social media and in promotional  
18 materials.  
19

20 51. Such conduct constitutes unfair or deceptive acts or practices in trade or commerce  
21 affecting public interest, capable of repetition, and caused Cascade to suffer injury to its business,  
22 goodwill and reputation as a result of those unfair or deceptive practices.  
23

24 **COUNT FOUR**

25 **(Common Law Unfair Competition)**

26 52. Cascade hereby incorporates by reference all previous allegations of this  
Complaint as if specifically set forth herein.

54. As set forth above, Defendants have made and continue to make

55. Defendants' past and ongoing harm of Cascade continuing to the present foreseeable future, and is a serious and unmitigated hardship. As a direct and proximate cause of Defendants' conduct, Cascade has been damaged in an amount not ascertainable at this time. Cascade will continue to suffer injury to its property, its rights and its business, unless and until Defendants are restrained from continuing their wrongful acts.

WHEREFORE, Cascade respectfully request the Court enter judgment in its favor as follows:

(2) awarding disgorgement of wrongfully obtained profits in an amount to be determined at trial;

1 (3) awarding prejudgment interest in an amount to be determined at trial; awarding  
2 injunctive relief prohibiting Defendants from engaging in the conduct described herein; and such  
3 other and further relief to which Plaintiff may be entitled.  
4

5  
6 Dated: April 15, 2013

7  
8 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

9  
10 By

/s/

Robert J. Guite, WSBA No. 25753  
Attorneys for Plaintiff  
Cascade Yarns, Inc.